

REMARKS

This amendment is in response to the Official Action mailed May 20, 2005. Applicant has amended claims 1, 2, 4, 5, 10, 11, 12, 14, 20 and 21 and canceled claim 3. Applicant also has amended several paragraphs of the specification to correct minor typographical errors. Claims 1, 2 and 4-22 remain pending for the Examiner's consideration. Claims 1, 10 and 20 are independent.

The Examiner rejected claims 4, 8, 9, 16 and 19 under 35 U.S.C. § 112, second paragraph, for indefiniteness. Applicant has amended claim 4 to overcome this rejection. With respect to claims 8, 9, 16 and 19, the Examiner states:

Applicant in claims 1 and 10 . . . does not recite the combination of the package and a product, and yet further defines the product in claims 8, 11 and 16. For the purpose of this Office Action, the product is assumed being claimed, but applicant is required to rephrase the claims to include the combination in the next response.

(Official Action at 2.) This rejection and requirement should be withdrawn.

Applicant is not claiming a combination of a package and a product. Applicant is claiming only a "package for a product" (claim 1) or "an interactive package for displaying a product" (claim 10). Although these claims refer to the product to define the package, the product itself is not being claimed.

As explained in the *Manual of Patent Examining Procedure* (Rev. 2, May 2004) §2173.01 at 2100-205 (hereinafter "MPEP"):

A fundamental principle contained in 35 U.S.C. 112, second paragraph is that applicants are their own lexicographers. They can define in the claims what they regard as their invention essentially in whatever terms they choose so long as any special meaning

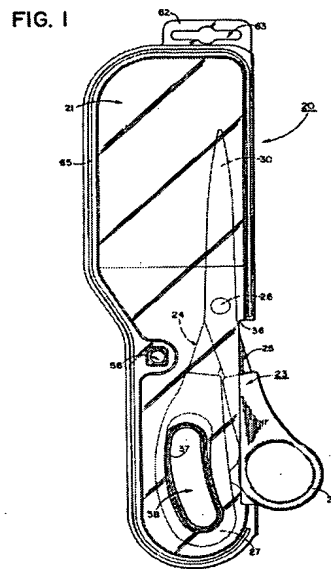
assigned to a term is clearly set forth in the specification. . . . Applicant may use functional language, alternative expressions, negative limitations, or any style of expression or format of claim which makes clear the boundaries of the subject matter for which protection is sought. As noted by the court in *In re Swinehart*, 439 F.2d 210, 160 USPQ 226 (CCPA 1971), a claim may not be rejected solely because of the type of language used to define the subject matter for which patent protection is sought.

In *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1081 (Fed. Cir. 1986), for example, the Court held that a claim to a part for a pediatric wheelchair "dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats" is not indefinite. See *MPEP* at §2173.05(b) at 2100-209. Although the claim referred to the doorframe of an automobile and the seat of an automobile to define the wheelchair part, the applicant clearly was not also claiming the doorframe, seat or automobile. By the same token, although Applicant is referring to the product to define the package, Applicant is not also claiming the product and should not be required to do so.

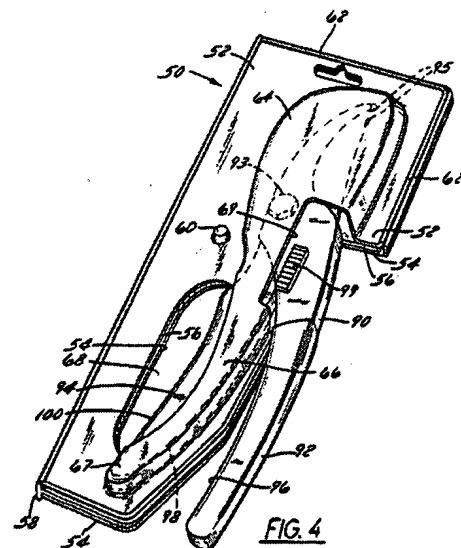
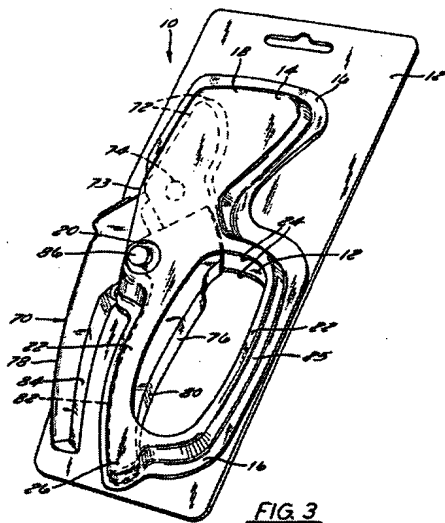
The rejections of Applicant's claims under 35 U.S.C. § 112, second paragraph, therefore, should be withdrawn.

The Examiner rejected, under 35 U.S.C. § 102(b), claims 1-7, 10-13, 15, 20 and 21 as being anticipated by U.S. Patent No. 5,435,447 ("*Weatherford*") and claims 1-7, 10-15, 20 and 21 as being anticipated by U.S. Patent No. 5,279,417 ("*Seaton*"). These rejections should be withdrawn.

Weatherford discloses a package for housing scissors. Figure 1 of *Weatherford* is reproduced below:



Seaton discloses a package for hand tools "such as scissors, pliers, pruners, snippers, clippers, or other hand tools." (Abstract.) Two embodiments are disclosed. These embodiments are shown in Figures 3 and 4 which are reproduced below.



Applicant's claim 1, as amended, recites a package for a product "having a main body and a single handle extending substantially transversely from the body." Both *Weatherford* and *Seaton* disclose packages for products having two handles, not a "single handle." To the extent that these products have a body, moreover, the body extends essentially in a straight-line from the handles, not "substantially transversely" to the handles.

Claim 1 further recites, "a front panel configured to cooperate with the back panel to form an enclosure surrounding at least a portion of the main body and the tip [of the single handle] to secure the product in the enclosure such that the handle is exposed and a person can grip the handle." *Weatherford* and *Seaton* disclose front and back panels configured to surround portions of two handles and a straight-line extension of these handles, not a "main body" as so defined and the "tip" of a single handle extending transversely from such a main body. Also, the *Weatherford* and *Seaton* packages are configured such that the two handles can be partially squeezed together by a person, not "such that the [single] handle is exposed and a person can grip" this single handle.

Neither *Weatherford* nor *Seaton*, therefore, whether considered individually or in combination, disclose or suggest Applicant's invention as recited in claim 1. Independent claims 10 and 20 distinguished over these references for reasons similar to those discussed above for claim 1. Since Applicant's remaining claims depend, either directly or indirectly, upon one of these independent claims, these dependent claims also are patentable over *Weatherford* and *Seaton*.

Applicant submits that this amendment and response place this application in condition for allowance. An early notice of allowance of all of the pending claims, namely, claims 1, 2 and 4-22, is respectfully requested. If for any reason the

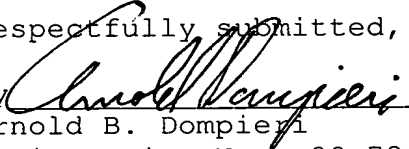
Examiner does not believe that such action can be taken at this time, however, he is respectfully requested to telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections he may have.

If any additional charges are due in connection with this requested amendment, the Examiner is authorized to charge Deposit Account 12-1095 therefor.

Dated: August 22, 2005

Respectfully submitted,

By


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